

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)

2015 FEB 19 P 2:51

KEARFOTT CORPORATION
a Delaware corporation
1150 McBride Avenue
Little Falls, NJ 07424

Plaintiff,

vs.

THE CHARLES STARK DRAPER
LABORATORY, INC.
a Commonwealth of Massachusetts corporation
555 Technology Square
Cambridge MA 02139

Defendant.

SERVE: CT CORPORATION SYSTEM
Registered Agent
4701 Cox Road, Suite 285
Glen Allen, VA 23060

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

Case No. 1:15 CV 225
JCC/TRJ

COMPLAINT

COMES NOW, Kearfott Corporation (hereinafter "Plaintiff" or "Kearfott"), by counsel,
and for its Complaint against The Charles Stark Draper Laboratory, Inc. (hereinafter "Defendant"
or "Draper") states the following:

THE PARTIES

1. Kearfott is a corporation organized and existing under the laws of the State of
Delaware with its principal place of business located at 1150 McBride Avenue, Little Falls, NJ
07424.

2. Upon information and belief, Draper is a corporation organized and existing under the laws of the Commonwealth of Massachusetts with its principal place of business located 555 Technology Square, Cambridge MA 02139.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 because there is complete diversity of citizenship between the parties and because the amount in controversy of this action exceeds \$75,000, exclusive of interests and costs.

4. This Court has general personal jurisdiction over Draper because Draper resides in the Eastern District of Virginia and has engaged in continuous and systematic contacts in the Eastern District of Virginia by maintaining an office and doing business in this judicial district.

5. Venue is proper in the Eastern District of Virginia pursuant to 28 U.S.C. § 1391(b)(1) because Draper resides in this judicial district.

6. Venue is proper in the Alexandria Division pursuant to Local Rule 3(c) because it is a division in which Draper resides.

BACKGROUND

7. Upon information and belief, Draper contracted with the United States Air Force to oversee the development and testing of Kearfott's Vibrating Beam Accelerometer ("VBA") for eventual use in a small missile program (hereinafter referred to as the "Project").

8. In or about August, 1987, Draper and Kearfott entered into a subcontract designated as Purchase Order DL-H-285389 in the amount of \$862,150. Subsequently, the parties entered into a series of contract amendments, culminating in Amendment 12, which established a total contract value of \$6,425,200 (collectively referred to hereinafter as the "Subcontract").

9. Pursuant to the Subcontract, Kearfott agreed to develop, test, and fabricate VBAs.

10. On or about May 21, 2014, Kearfott submitted to Draper the final Invoice No. 45 in the amount of \$409,976.46.

11. Despite due demand Draper has failed to remit payment to Kearfott for Invoice No. 45.

COUNT I
(Breach of Contract)

12. The allegations contained in paragraphs 1 through 11 above are incorporated herein by reference as if set forth in full.

13. Despite due demand, Draper has failed and refused to pay Kearfott the remaining balance due to Kearfott totaling \$409,976.46, not including interest.

14. Draper materially breached the Subcontract with Kearfott by, *inter alia*, failing to pay in full the amounts owed thereunder.

15. After applying all applicable credits available as of the date of the filing of this action, Kearfott has been damaged and continues to be damaged in the amount of at least \$409,976.46, not including interest.

16. Kearfott has satisfied all conditions precedent to the filing of this action.

WHEREFORE, Plaintiff Kearfott Corporation, respectfully requests that this Court enter judgment against the Defendant The Charles Stark Draper Laboratory, Inc., in the amount of, at least, \$409,976.46, plus pre- and post-judgment interest, the costs expended herein and such other and further relief in favor of Plaintiff Kearfott Corporation, as this Court deems necessary and just.

COUNT II
(Alternative Count for Unjust Enrichment / *Quantum Meruit*)

17. The allegations contained in paragraphs 1 through 16 above are incorporated herein by reference as if set forth in full.

18. In the event that the Court determines that no contract exists between Kearfott and Draper, in the alternative, Kearfott seeks payment for the development, testing, and fabrication of VBAs for the Project on the basis of *quantum meruit*.

19. At all relevant times hereto, Draper requested Kearfott to provide, and knew or was aware that Kearfott was developing, testing, and fabricating VBAs for Draper for the Project.

20. At all relevant times hereto, Draper knew or should have known that Kearfott expected to be paid for said work and services provided to Draper for the Project.

21. To date, Kearfott has only received a portion of the total amount due and owing for its work and services furnished for the Project.

22. Absent payment to Kearfott for the work and services it has performed and furnished for the Project, Draper will continue to be unjustly enriched as it received the benefit of Kearfott's work and services.

23. The reasonable value of work and services furnished by Kearfott to Draper for the Project for which no payment has been received is \$409,976.46, plus interest.

WHEREFORE, Plaintiff Kearfott Corporation, respectfully requests that this Court enter judgment against the Defendant The Charles Stark Draper Laboratory, Inc., in the amount of, at least, \$409,976.46, plus pre- and post-judgment interest, the costs expended herein and such other and further relief in favor of Plaintiff Kearfott Corporation, as this Court deems necessary and just.

Date: 2-19-2015

Respectfully Submitted,

KEARFOTT CORPORATION

By Counsel

A handwritten signature in black ink, appearing to read "Stephen D. Knight", written over a horizontal line.

Stephen D. Knight (VSB No. 17893)

Owen S. Walker (VSB. No. 75543)

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